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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/601,985

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Peter S. Vogel

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EXAMINER

DUFFIELD, JEREMY S

ART UNIT

PAPER NUMBER

2609

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/601,985

Applicant(s)

VOGEL, PETER S.

Examiner

Jeremy Duffield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 16-31 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the Examiner will consider claims 16-31 as dependent on claim 1.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 16-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to which "messages" claims 16-31 refer to. Examiner will equate the messages from claims 16-31 to the second message of claim 1b.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-17, 20, 24, 25, 32, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Stettner (US 7,194,511).

Regarding claim 1, Stettner teaches an audience interaction method comprising the steps of:

- a) receiving a first message from a member of the audience of an electronic entertainment program (Col. 3, lines 21-23); and
- b) inserting a second message based on said first message into said electronic entertainment program (Col. 8, lines 27-30).

Regarding claim 2, Stettner further teaches the electronic entertainment program is a television program (Col. 4, lines 33-38).

Regarding claim 3, Stettner further teaches the electronic entertainment program is a radio program (Col. 4, lines 33-38).

Regarding claim 4, Stettner further teaches the electronic entertainment program is an Interact-delivered multimedia program (Col. 4, lines 33-38).

Regarding claim 5, Stettner further teaches the first message comprises at least an audio message (Col. 4, line 67; Col. 5, lines 1-6).

Regarding claim 6, Stettner further teaches the first message comprises at least a text message, i.e. character string messages (Col. 4, line 67; Col. 5, lines 1-6).

Regarding claim 7, Stettner further teaches the first message comprises at least a visual image i.e. JPEGs and MPEGs (Col. 4, line 67; Col. 5, lines 1-6).

Regarding claim 8, Stettner further teaches the second message comprises at least an audio message (Col. 4, line 67; Col. 5, lines 1-6; Col. 8, lines 49-51). Stettner's participant input/submission is broadcast. Examiner equates the second message to the participant input/submission.

Regarding claim 9, Stettner further teaches the second message comprises at least a text message (Col. 4, line 67; Col. 5, lines 1-6; Col. 8, lines 49-51). Stettner's participant input/submission is broadcast. Examiner equates the second message to the participant input/submission.

Regarding claim 10, Stettner further teaches the second message comprises at least a visual image (Col. 4, line 67; Col. 5, lines 1-6; Col. 8, lines 49-51). Stettner's participant input/submission is broadcast. Examiner equates the second message to the participant input/submission.

Regarding claim 11, Stettner further teaches the first message is received via telephone (Col. 3, lines 56-65).

Regarding claim 12, Stettner further teaches the first message is received via cellphone SMS; i.e. character string messages via wireless devices; (Col. 3, lines 56-65; Col. 4, line 67; Col. 5, lines 1-6).

Regarding claim 13, Stettner further teaches the first message is received via Internet (Col. 3, lines 56-65).

Regarding claim 14, Stettner teaches an audience interaction method comprising the steps of:

- a) receiving an audio message (Col. 4, line 67; Col. 5, lines 1-6) from a member of the audience of an electronic entertainment program (Col. 3, lines 21-23);
- b) converting said audio message into a text message (Col. 8, lines 7-9);
- c) inserting said text message into said electronic entertainment program (Col. 8, lines 27-30).

Regarding claim 15, Stettner teaches an audience interaction method comprising the steps of:

- a) receiving a text message (Col. 4, line 67; Col. 5, lines 1-6) from a member of the audience of an electronic entertainment program (Col. 3, lines 21-23);
- b) converting said text message into a spoken message (Col. 8, lines 3-6);
- c) inserting said spoken message into said electronic entertainment program (Col. 8, lines 27-30).

Regarding claim 16, Stettner teaches queuing received messages for use at a later time i.e. storing participant input in a storage unit (Col. 4, lines 65-67).

Regarding claim 17, Stettner teaches the received messages are presented to a human operator who selects messages to be discarded (Col. 5, lines 35-39).

Regarding claim 20, Stettner teaches the messages; i.e. additional programming or advertisements; are inserted at the television transmission station; i.e. local studio; (Page 6, lines 8-12 of 09/736952 which is incorporated by reference from Col. 4, lines 22-27 of this application).

Regarding claim 24, Stettner teaches the messages to be inserted are conveyed to the viewer's home via a radio broadcast (Col. 4, lines 33-38) and are

inserted into a television program being viewed at the viewer's home (Col. 5, lines 50-53).

Regarding claim 25, Stettner teaches the messages to be inserted are conveyed to the viewer's home via a radio broadcast (Col. 4, lines 33-38) and are reproduced as a separate audio signal (Col. 5, lines 1-5, 50-55).

Regarding claim 32, Stettner teaches a method of creating a television program comprising the steps of:

- a) Receiving at least one message; i.e. submission; from at least one member of the audience of an electronic entertainment program (Col. 3, lines 21-23);
- b) Converting the messages into a television program; i.e. submission taped along with the interactive show (Col. 5, lines 50-55);
- c) Transmitting said television program (Col. 5, lines 50-55).

Regarding claim 33, Stettner teaches the television program is transmitted by insertion into said electronic entertainment program (Col. 5, lines 50-55).

5. Claim 32 is rejected under 35 U.S.C. 102(e) as being anticipated by Novak (US 7,103,905).

Regarding claim 32, Novak teaches a method of creating a television program comprising the steps of:

- a) Receiving at least one message; i.e. media object; from at least one member of the audience of an electronic entertainment program (Col. 9, lines 22-25);
- b) Converting the messages into a television program (Col. 9, lines 14-19);
- c) Transmitting said television program (Col.10, lines 10-13).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 21-23, 26-29, 31, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stettner in view of Hendricks.

Regarding claim 21, Stettner teaches all elements of claim 1.

Stettner does not clearly teach the messages to be inserted are conveyed to the viewer's home via the Internet and are inserted at the viewer's home.

Hendricks teaches the messages to be inserted; i.e. advertisements; are conveyed to the viewer's home via the Internet and are inserted at the viewer's

home (Col. 9, lines 48-58). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to transmit the messages to the viewer's home via the internet and insert them at the viewer's home so as to provide an alternative method of receiving messages and to free up other lines of communication.

Regarding claim 22, Stettner teaches all elements of claim 1.

Stettner does not clearly teach the messages to be inserted are conveyed to the viewer's home via coding within a television signal and are inserted at the viewer's home in visual form.

Hendricks teaches the messages to be inserted are conveyed to the viewer's home via coding within a television signal (Col. 4, lines 29-35) and are inserted at the viewer's home in visual form, i.e. using the switching plan, the television tunes into the feeder channel containing the advertisement (Col. 6, lines 14-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to transmit the messages to the viewer's home via coding within a television signal and insert them in visual form so as to allow the viewer to watch the message on a viewing screen.

Regarding claim 23, Stettner teaches all elements of claim 1.

Stettner does not clearly teach the messages to be inserted are conveyed to the viewer's home via coding within a television signal and are inserted at the viewer's home in audible form.

Hendricks teaches the messages to be inserted are conveyed to the viewer's home via coding within a television signal and are inserted at the viewer's home in audible form, i.e. using the switching plan, the television tunes into the feeder channel containing the advertisement (Col. 6, lines 14-20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to transmit the messages to the viewer's home via coding within a television signal and insert them in audible form so as to allow the viewer to listen to the message through a set of speakers.

Regarding claim 26, Stettner teaches all elements of claim 1.

Stettner does not clearly teach generating statistical information from messages received.

Hendricks teaches generating statistical information from messages received, i.e. the switching history from the television terminal that is gathered using the number of times each commercial is inserted (Col. 6, lines 24-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to generate statistical

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information from received messages so as to provide the viewers with geographic- and age-related messages.

Regarding claim 27, Stettner teaches all elements of claim 1.

Stettner does not clearly teach the charging for each message received.

Hendricks teaches the charging for each message received (Col. 71, lines 20-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to charge for each message received so as to provide money for the expense of broadcasting an interactive television show.

Regarding claim 28, Stettner teaches all elements of claim 1.

Stettner does not clearly teach charging for each message received and inserted.

Hendricks teaches the charging for each message received and inserted (Col. 71, lines 20-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to charge for each message received and inserted so as to provide money for the expense of broadcasting an interactive television show.

Regarding claim 29, Stettner teaches all elements of claim 1.

Stettner does not clearly teach charging a first amount for each message received and a second amount for each message inserted.

Hendricks teaches charging a first amount for each message received and a second amount for each message inserted, i.e. ability to charge different rates (Col. 36, lines 64-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to charge a first amount for each message received and a second amount for each message inserted so as to be able to charge a small amount for a message received and a larger amount for a message inserted, which would save the audience member money if his/her message wasn't inserted.

Regarding Claim 31, Stettner teaches all elements of claim 1.

Stettner also teaches a human operator who performs last-stage screening of participant input (Col. 5, lines 30-32).

Stettner does not clearly teach the received messages are presented to a human operator who assigns a rating to each message accepted and higher-rated messages are inserted in priority to lower-rated messages.

Hendricks teaches a method of assigning a weight to specific commercials that is used to prioritize the advertisements that will be sent to individual set top terminals (Col. 71, lines 18-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's input selection process to have received messages presented to a human

operator who assigns a rating to each message accepted and higher-rated messages are inserted in priority to lower-rated messages so as to insert the messages that would provide the most benefit for audience members and the television station.

Regarding claim 34, Stettner teaches all elements of claim 32.

Stettner does not clearly teach the television program is transmitted after the conclusion of said electronic entertainment program.

Hendricks teaches the television program is transmitted after the conclusion of said electronic entertainment program (Col. 11, lines 5-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's program insertion technique to insert television programs after the conclusion of an electronic entertainment program so as to view the audience member's submission or other content instead of watching the next television show.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stettner in view of Boda (US 7,062,222).

Regarding claim 18, Stettner teaches all elements in claim 1.

Stettner does not clearly teach the received messages are filtered by computational means adapted to discard unsuitable messages.

Boda teaches a computer used to automatically accept or reject requests according to predefined criteria (Col. 5, lines 33-35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's message filtering means to use a computational means adapted to discard unsuitable messages so as to free up personnel to save money or so that the personnel may do something else.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stettner in view of Travaille (US 6,067,107).

Regarding claim 19, Stettner teaches all elements of claim 1.

Stettner does not clearly teach the messages are received at a rate above a predetermined rate some messages are automatically discarded.

Travaille teaches some messages are automatically discarded if they are received at a rate above a predetermined rate (Col. 1, lines 61-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's message receiver to automatically discard messages received at a rate above a predetermined rate so as to have a smaller message queue or a smaller storage device.

10. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stettner in view of Blahut (US 5,532,735).

Regarding claim 30, Stettner teaches all elements of claim 1.

Stettner does not clearly teach only a subset of messages received are inserted and the probability of a particular message being inserted is proportional to an amount paid by the person submitting said message.

Blahut teaches only a subset of messages received are inserted (Fig. 5, el. 236), and the probability of a particular message being inserted is proportional to an amount paid by the person submitting said message (Fig. 5, el. 256, 250). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stettner's system to insert a subset of received messages and the probability of a particular message being inserted is proportional to an amount paid by the person submitting said message so as to provide an incentive for those viewers who pay more money to get less commercials.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Duffield whose telephone number is (571) 270-1643. The examiner can normally be reached on Mon.-Thurs. 7:30 A.M.-5:00 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on (571) 272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSD
August 28, 2007


HAU TRAN
PRIMARY EXAMINER